

Campbell, Rich

From: Rader, Cliff
Sent: Sunday, December 08, 2013 4:06 PM
To: Marshall, Tom
Cc: Rader, Cliff
Subject: FS commits to mitigation for offsite impacts

Categories: EPA

Volume 5 - cannot attach - too big <http://www.rosemonteis.us/files/final-eis/rosemont-feis-vol-5-appendix.pdf>

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The Forest Service authority related to mitigation is limited to protection of surface resources of NFS lands (see 30 United States Code (U.S.C.) 612, 5 U.S.C. 551, and 36 CFR Part 228.1). In order for the Forest Service to require implementation of mitigation, the mitigation must have a direct connection to avoiding, mitigating, or minimizing effects on NFS surface resources. The Forest Service has no authority, obligation, or expertise to determine or enforce compliance with other agencies' laws or regulations. The Forest Service seeks to coordinate with other agencies to approve a legally compliant final mine plan of operations (MPO). However, it is the operator's responsibility to ensure that its actions comply with applicable laws.

Mitigation and monitoring items under this heading are within the authority of the Forest Service, U.S. Fish and Wildlife Service (USFWS) through the current biological opinion, or Arizona State Historic Preservation Office (SHPO) through the current memorandum of agreement (MOA). They would be specified as a requirement of the record of decision (ROD) and incorporated into the final MPO. **This category includes mitigation measures and associated monitoring items that would help to minimize impacts to Forest Service surface resources; or are required by the USFWS biological opinion,** the MOA with the Arizona SHPO and associated historic properties treatment plan (HPTP). The Forest Service is responsible for overseeing implementation of the mitigation and monitoring in this category. It has the regulatory responsibility to do so for those measures that minimize impacts to Forest Service surface resources, and it has a legal obligation to ensure that the requirements of the biological opinion and MOA/HPTP are implemented. The Forest Service is responsible for determining whether the implementation of mitigation and the results of monitoring in this category are in compliance with the decision that will be documented in the ROD and in compliance with the final MPO.

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Mitigation and Monitoring – Forest Service

The mitigation and monitoring in this section would be required by the Forest Service and included in the ROD and final MPO. These measures are either designed to mitigate impacts to Forest Service surface resources or are components of either the USFWS biological opinion or the Arizona SHPO MOA. The Coronado has the responsibility to monitor implementation of the terms and conditions of the biological opinion and MOA

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Rosemont Copper would establish an endowment, the Cienega Creek Watershed Conservation Fund, and provide \$2,000,000 of funding. This fund would essentially be established as: (1) a resource to help restore the watershed to a functioning ecosystem; and (2) a mechanism to promote adaptive management and allow flexibility in mitigation to achieve desired outcomes in light of future uncertainties.

Funds would be used to increase water flows and enhance wetlands in the Cienega Creek watershed and to implement future mitigations and management strategies to offset unanticipated effects resulting from groundwater drawdown from the mine, if necessary. Administrative costs for the fund would not be included in the \$2,000,000 and would be provided separately as specified in the biological opinion. Monies would be spent for on-the-ground restoration, rather than inventory, monitoring, and research.

The conservation fund would be managed by a to-be-designated third party. The location and design of projects would be determined by the BLM, with input from other key stakeholders in the watershed, including the Coronado and USFWS. Projects would be designed to preserve and enhance aquatic and riparian ecosystems, protect and maintain habitat for federally listed aquatic and riparian species, and increase water flows and enhance wetlands in the Cienega Creek watershed.

Refer to the biological opinion for further details.

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